

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

**UNITED STATES OF AMERICA,**

*Plaintiff,*

**v.**

**BILLY JAMES MENEES and  
ASHLEY DAWN MARIE SCHARDEIN,**

*Defendants.*

**Case No. 21-CR-151-TDD**

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**JOINT MOTION FOR CONTINUANCE OF SENTENCING HEARINGS  
AND REQUEST FOR FURTHER BRIEFING**

COMES NOW the United States of America, by and through United States Attorney Christopher J. Wilson and Assistant United States Attorney Caila M. Cleary and submits this Joint Motion for Continuance of the Sentencing Hearings and Request for Further Briefing. Defendant Schardein is set to be sentenced on July 24, 2024. Defendant Menees is set to be sentenced on July 26, 2024. Counsel for the Government has consulted with Ronald Gainor and Kara Carreras, Counsel for the Defendants, about this Motion and the Defendants both join in this Motion.

On May 12, 2021, the Defendants were charged by way of a two-count Indictment: Count One – Child Abuse in Indian Country, in violation of 18 U.S.C. §§ 1151, 1152, 2, & 21 Okla. Stat. 843.5(A)(1), and Count Two – Child Neglect in Indian Country, in violation of 18 U.S.C. §§ 1151, 1152, 2, & 21 Okla. Stat. 843.5(C). (Dkt. No. 23). On May 17, 2021, the Defendants were arraigned on the Indictment. (Dkt. Nos. 30 & 32). The case was set for jury trial on the Court’s July 20, 2021, docket and then continued at Defendant Menees’ request to the September 14, 2021, jury trial docket. (Dkt. Nos. 50 & 125).

Thereafter, on January 25, 2022, a Superseding Indictment (Dkt. No. 98) was rendered which expanded the timeframe of the previously charged conduct and specified that both Defendants are non-Indians. On February 1, 2022, the Defendants were arraigned on the Superseding Indictment. (Dkt. Nos. 109 & 110). On April 22, 2022, Defendant Schardein filed a motion to continue the trial to the October 2022 jury trial docket. (Dkt. Nos. 123 & 125). This Court granted the motion, and the case was thereafter set for trial on October 24, 2022. (Dkt. No. 125).

A Jury Trial commenced on February 14, 2023, and concluded on February 23, 2023. The duly sworn and empaneled jury found the Defendants guilty of Counts One and Two of the Superseding Indictment. Upon return of the verdict, the Defendants were remanded to the custody of the United States Marshals Service pending sentencing.

Defendant Schardein is set to be sentenced on July 24, 2024. Defendant Menees is set to be sentenced on July 26, 2024. Defendant Schardein has already filed his Sentencing Memorandum. The Government was prepared to file its Sentencing Memorandum on July 18, 2024. However, before its Memorandum could be filed, the Tenth Circuit Court of Appeals issued an unpublished order on July 18, 2024, in *United States v. Shell*, 23-5086 (10<sup>th</sup> Cir, 2024). In this decision, the Circuit Court reversed a child abuse conviction from the Northern District of Oklahoma which was charged under the Assimilative Crimes Act. *Id.*

The issuance of the Order in *Shell* has the potential to dramatically impact the Defendants' cases before this Court for sentencing. A continuance of the Sentencing Hearing will enable the parties to fully research the implications of the Tenth Circuit's Order and will allow additional briefing of the issues. A continuance would provide the parties reasonable time necessary for

effective preparation. As such, the parties respectfully request that the Court continue the sentencing dates currently set in the above-captioned matters.

Respectfully submitted,

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s/ Caila M. Cleary  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 19, 2024, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Ron Gainor, Attorney for Defendant Schardein  
Lynn Pierce, Attorney for Defendant Schardein  
Cody Cofer, Attorney for Defendant Menees  
Kara Carreras, Attorney for Defendant Menees

s/ Caila M. Cleary  
CAILA M. CLEARY  
Assistant United States Attorney